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June 22, 2005

Mary Cottrell
Secretary
Department of Telecommunications and Energy
1 South Station – 2nd Floor
Boston, MA 02110

Re: DTE 02-38 Request for Comments (June 8, 2005)

Dear Ms. Cottrell:

We write in response to the DTE's request for comments on DTE 02-38 dated June 8, 2005.¹

Overall, we believe that the 2005 Revised Model Interconnection Report is a fair summary of the work completed in the DG Collaborative meetings over the past year. However, the DG Collaborative was dominated by the perspectives of electric utilities and (to a lesser degree) small-scale renewable energy interests. Participation from larger scale distributed generation (DG) stakeholders was nearly non-existent. We have growing concerns with the process being used by the DG Collaborative, which we believe does not equitably capture the diversity of perspectives on DG deployment in Massachusetts. Given the importance of these activities to the Commonwealth in general and the DTE specifically, we urge the Department to re-evaluate the processes they are currently employing to carry out their objectives as initially established by the Department in their docket 02-38. We suggest that the Department consider committing resources to ensure adequate representation of all perspectives in the Collaborative process. California, for example, has adopted procedures to allow stakeholders to recover some of the costs of participating in policymaking processes similar to the DG Collaborative. New York, taking an alternate approach, has dedicated staff with expertise in DG technical issues and can counter-balance utility technical arguments, separating legitimate arguments from pre-textual claims.

We also note that DTE Chairman Afonso, Attorney General Reilly and ISO-NE Chief Executive van Welie have all recently expressed concern with the costs that rate-payers will be forced to

¹ These comments are supported by the E Cubed Company LLC, Equity Office Properties, The Energy Consortium (TEC), The Gas Technology Institute (GTI), The Northeast CHP Initiative (NECHPI), RealEnergy LLC and Turbosteam Corporation.

pay if more generation capacity is not brought on line in the region before 2008.² Mr. van Welie went on to suggest that the region could face rolling blackouts if these new generators are not brought on line, suggesting that:

- (a) The DTE ought to be maximally encouraging the deployment of all new generation sources, even if they are privately owned and dispatched since all new generators will reduce LICAP-related costs (but customer-sited, base-load generators cannot readily recover LICAP financial incentives), and;
- (b) The DTE ought to ensure that fair market rules are in place to allow electricity consumers to invest in on-site generation that will protect their businesses from potential future blackouts, since they bear the burden of the cost of grid disruptions.

Both of the above needs argue for policies that encourage the interconnection and fair rate treatment of distributed generation such as were initially envisioned in DTE 02-38. However, we are concerned that the process currently being used by the DTE in the completion of 02-38 is – at this point in time – more likely to maintain the status quo than to provide the regulatory modernization that the Commonwealth so urgently needs.

Our specific comments with regard to the Report of the DG Collaborative are as follows:

1. Participation in the DG Collaborative is increasingly dominated by regulated electric utilities, whose participation is funded by ratepayers. This has resulted in a largely one-sided “dialog” that does not include perspectives of the DG Industry.

When the 02-38 process was initiated in June 2002, proceedings were actively and regularly attended by organizations with financial interests on both sides of the relevant technical issues: from DG developers who would realize financial gain from the accelerated deployment of DG technologies in the state to regulated utilities who would realize revenue reduction as their customer’s loads were served by locally generated electricity. Given the strong financial incentives that these opposed parties had to overstate (or understate) technical requirements for safe interconnection, it was critically important for a process to incorporate and evaluate all perspectives. To some degree, the initial processes as administered by Raab & Associates succeeded in this effort (at least for small to mid-size interconnections on radial grids), and the radial interconnection standard that now exists in Massachusetts is widely recognized as one of the more balanced nationwide.

Unfortunately, subsequent to the completion of the radial interconnection standard, participation in 02-38-related activities has been much less balanced, as is evident in Table 1 of the recent 2005 report on 02-38, *The number of meetings attended by participants of the 2004/2005 DG Collaborative*. As such, while the initial 02-38 efforts led to a positive change in the manner in which state utilities interconnected DG to their grid, the recent activities have served primarily to maintain the status quo: no change in network interconnection practice, no change in application fees or timelines for interconnection, and no progress on the use of DG as a tool to serve new load on the distribution grid.

² Howe, Peter, “Regulator Backs Plan that Could Cost Ratepayers \$13b”, *Boston Globe*, June 16 2005.

We believe that it is therefore imperative for the DTE to revisit the process that they are now using to complete their 02-38 activities. Such considerations ought to take into account the following factors, each of which have contributed in part to the decline in participation by the DG sector:

- Utility participation is ratepayer funded, while DG participation must be funded out of DG industry revenues. As the proceedings dragged on and utilities remained intransigent on key issues left to be resolved, most DG stakeholders stopped participating, or reduced their participation dramatically to conserve limited financial resources. We commend DOER for remaining committed to the effort and seeking to advance the cause of DG in a balanced and reasonable fashion, but note that it is not reasonable to expect DOER to fully represent the perspectives of the private sector.
- While MTC and Navigant have done a good job moderating these proceedings, they have not been given authority to match their responsibilities. Without the authority to compel participants to remain on-topic or to provide data in a timely fashion, this has tended to increase the length of 02-38 meetings while simultaneously reducing their meaningful content. This has been compounded by the Department's apparent desire to engage in the 02-38 processes as a participant rather than a leader thereof, and has steadily reduced the incentive for voluntary Collaborative participants (e.g., everyone but the state's utilities and agencies) to continue their participation.
- A perception exists in the DG community that the DTE is unwilling to confront the state's regulated utilities on issues of DG policy, particularly with respect to DG systems that might measurably impact utility revenues – i.e. DG systems greater than 1MW. The clearest example of this in the interconnection context is with regard to network interconnections. While New York, California and other states allow DG systems to interconnect with a spot network system, the Massachusetts utilities have continued to insist that such interconnections are not possible without “further study”. They raise objections and potential problems that simply have not occurred in other jurisdictions. Many in the DG industry have decided that Massachusetts is not receptive to distributed generation of any significant scale and have dedicated their efforts to other states. The state's utilities obviously gain from this diminished participation as DG deployment in the state slows, but ratepayers lose as competition is reduced, economic development hindered, and viable energy solutions are ignored.

2. The Department's recent actions on standby rates have substantially compromised their credibility in the DG community and created uncertainty with respect to future Department actions that relate to DG.

Since the Department approved NSTAR's standby rate in 03-121, we are not aware of a single DG project under development in Boston that would be subject to the new rates – this is borne out by the data on reported interconnection applications in NSTAR territory in the 02-38 Annual Report. However, our members are aware of potential multi-million dollar DG projects that were stopped in their tracks once the impact of the punitive NSTAR standby rates was appreciated. Thus, a rate that was claimed to be designed to make NSTAR “whole” after DG deployment appears to actually be simply preventing the meaningful deployment of DG in

NSTAR's service territory, making the technical details of interconnection a nearly irrelevant issue in the most congested portions of the Massachusetts power grid.

Given as this concern was voiced early and frequently in the DTE 03-121 hearings, there is an understandable perception in the DG community that the Department is unwilling to confront the state's utilities on issues of DG policy. This is particularly disappointing since prior Orders by the Department raised hopes and expectations that DG would be encouraged in Massachusetts.

Specifically:

- In the NEES / EUA Merger approval (DTE 99-47), the Department indicated that "... in addressing new on-site generation as an exogenous factor in any future Exogenous Factors Adjustment proceeding, the Department at a minimum will consider: (1) what method of analysis should be used to quantify the economic impact on the Company of new on-site generation; (2) the potential impact of assessing a special fee to certain customers installing new on-site generation on the emergence of new beneficial technologies; and (3) the extent to which revenue losses from new on-site generation should be recovered through a balance between special fees and the ratepayers within the designated rate classes (Tr. 1, at 91-93)".
- In the order opening an investigation on Distributed Generation (DTE 02-38), the DTE indicated that they would explicitly institute a generic proceeding on standby rates external to specific utility rate filings, acknowledging therein that "backup rates that are too high may inappropriately discourage distributed generation".
- On July 23, 2004, the Department approved a standby rate for NSTAR at the conclusion of their 03-121 hearing, without taking into account their stated intent in DTE 99-47 and DTE 02-38, and in spite of a "...failure to show a difference between the cost of serving customers with or without [customer-owned generation]". Furthermore, the fact that the 03-121 decision was made in a way that "...cannot be used as precedent in resolving future rate cases" effectively squandered the resources that the DG industry contributed to the case, since none of the arguments raised therein can be leveraged to minimize future industry commitments to state DG policy decisions.³
- To date, the Department has not initiated any investigation into the costs and benefits that DG creates for the distribution system.

This contradiction of stated intent has fostered uncertainty and created the perception in the DG community that the states' other regulated utilities need only file for standby rates of their own to circumvent 99-47 and 02-38 and apply standby rates to their own service territories. More broadly, this has led many DG companies to limit their participation in Massachusetts DG-related policy activities due to the lower expectation of a favorable outcome and an unwillingness to devote any continuing resources to regulatory processes that lack the potential for clear, decisive outcomes.⁴

³ Quoted text is from Commissioner Manning's dissent to the DTE's July 23, 2004 approval of the 03-121 settlement.

⁴ This fall-off can be seen by comparing the list and frequency of DG company participation in the recent Annual report to that which participated in the initial state interconnection activities in DTE 02-38, and in the NSTAR standby rate case DTE 03-121.

3. Massachusetts has ceded their position as a leader on DG policy issues nationwide, thus reducing the incentive for the DG industry to constructively and rigorously engage with the state on DG policy development issues.

Nationwide, DG policies evolve in 51 concurrent state jurisdictions and at the federal level, with little consistency or overlap between them. Regulated utilities need devote their advocacy efforts to only two of these jurisdictions (federal and their specific state), while DG market participants must engage in all jurisdictions where they do business. Given the small size of many DG companies, it is not financially possible to fully engage in every jurisdiction, and efforts are therefore selectively targeted only to those states that (a) have the maximum potential for future projects and/or (b) are at the forefront of DG policy, creating the templates that other jurisdictions follow.

When the DTE initiated the 02-38 process in June of 2002, Massachusetts was among the nation's policy leaders in both electricity market liberalization and the development of DG policies. At that time, the state was:

- Among the first to restructure;
- Among the first to begin the development of an interconnection standard;
- Had signaled that standby rates would not be introduced until a full accounting for all DG costs and benefits had been undertaken;
- Had some of the highest electricity rates in the nation.

In short, Massachusetts was a very attractive state in which to be a DG developer. Not surprisingly, this led many DG companies to actively participate in state interconnection proceedings commenced under DTE 02-38. With this participation, the DG Collaborative developed a standard that built on the California model to cement the idea of technical screens (as opposed to rated generator output) as the basis for interconnection, and can take some credit for this model being adopted by FERC in their own standard. They also developed the first standard in the country for interconnection to network grids, and created the expectation for further advances in a state that "got it" with respect to unregulated power sources.

In the intervening period, electric rates have remained high, but the regulatory climate has become much less attractive. Specifically:

- The Department approved a standby tariff for NSTAR that – in the Boston Edison territory – has some of the most putative standby tariffs of any utility in the country.
 - *Meanwhile, the Connecticut legislature has just passed H.B. 6906 which would pay DG owners up to \$500/kW for their installed capacity out of a recognition that such investments help alleviate grid congestion and lower overall power rates to all Connecticut ratepayers.*
- The DG Collaborative has elected not to expand the state's network interconnection standard above the current 10 kW/inverter-based limit, effectively precluding DG from interconnecting on municipal electric grids.

- *Meanwhile, New York has introduced a new interconnection standard that allows for up to 2,000 kW, synchronous interconnection on network grids (and has a proposal currently in development which would expand this to 5,000 kW).*
- The Distribution Planning section of the DG Collaborative has spent a year considering the impacts of DG on distribution planning, and has managed only to complete an analysis of the revenue that the state's utilities would lose if a substation was idled by DG capacity, with no consideration of DG's impacts on upstream system assets or overall electricity rates.
 - *Meanwhile, Vermont has passed S.52, which among other things directs the state utility commission to "rebundle" benefits in least-cost planning calculations so that customer-sited investments can be equitably compared to the upstream distribution, transmission, generation and fuel procurement that they displace, even if <100% of those rebundled assets are under the financial control of the state's regulated utilities.⁵*

As these examples show, Massachusetts has ceded its position as a thought and policy leader on issues of DG regulation. Obviously, it is not possible for every state to lead, so to some degree this transition was perhaps to be expected. However, now that Massachusetts is no longer among those leaders, it is unreasonable to expect that a voluntary collaborative process would still be capable of fully vetting issues of DG policy. As such, we assert that this puts the onus on the Department to play a more active role in the oversight and adjudication of DG policy than they have in the past, and to make sure that they have an appreciation for the perspectives that the electric utility sector is unlikely to bring to the table.

Summary and Recommendations

Clearly, the issues above are closely inter-related. The loss of leadership on DG issues necessarily leads to a less active DG community in the state, which necessarily leads to incomplete understanding of DG issues at the DTE (and hence a perception of DTE bias when the Department issues rulings based on an incomplete understanding of the issues), which further erodes the state's position of leadership on DG policy. This cycle, if left unchecked, is counter-productive to the state's interests and counter-productive to the Department's initial objectives as laid out in DTE 02-38. We therefore encourage the Department to:

- Return Massachusetts to the forefront of DG policy leadership.
- Take strong and visible actions to address continuing barriers to DG deployment.
- Follow through on the matters addressed in 02-38, particularly with respect to standby rates. Commence an investigation of the costs and benefits of DG on the state power grid, and roll back the NSTAR standby tariffs until that investigation is complete, since that rate failed to take into account actual costs or benefits.
- Dedicate resources to a full and fair debate of the important policy issues at stake.

⁵ This bill also decouples utility revenues from kWh sales to remove the disincentives that regulated utilities otherwise would have to encourage reductions in customer kWh purchases, and uses a renewable portfolio standard to provide incentives for renewables and CHP technology. For details, see <http://www.leg.state.vt.us/database/status/summary.cfm?Bill=S%2E0052>.

- Re-evaluate the Department's reliance on collaborative, extra-judicial processes as a tool to develop state energy policies, and to devise a new mechanism that provides the Department with a more egalitarian perspective on DG issues.

These issues are also closely related to on-going debates at the DTE, ISO and FERC to provide appropriate market incentives to bring new electric generation capacity on-line in our region. If this plan fails to provide capacity to meet new load growth, the cost will be borne not by the state's distribution utilities, but by the ratepayers themselves. This suggests that the Department should be maximally supporting the deployment of new generation in the state, and thus that the Department should more constructively engage in and direct those activities now underway as part of DTE 02-38.

Respectfully Submitted,

Sean Casten
Chairman, Northeast CHP Initiative

cc: Ranch Kimball

About the Northeast CHP Initiative

The Northeast CHP Initiative is a non-profit, ad hoc organization dedicating to accelerating the deployment of clean and efficient combined heat and power technology in the Northeastern United States. Its members include representatives from the public and private sector, electricity consumers and utilities, CHP manufacturers, financiers and end-users. As an ad hoc organization, the views expressed herein do not necessarily represent the views of all NECHPI member organizations. Resources used to prepare this letter were provided entirely by individual corporate members of the NECHP Initiative.